

Norman L. Eisen (admitted *pro hac vice*)  
 Laura E. Neish (LN-0040)  
 ZUCKERMAN SPAEDER LLP  
 1540 Broadway, Suite 1604  
 New York, New York 10036-4039  
 Tel: (212) 704-9600

*Attorneys for Tone N. Grant*

UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK

-----x	
In re:	:
REFCO, INC., et al.,	:
Debtors.	:
-----x	
TONE N. GRANT,	:
Plaintiff,	:
v.	:
ILLINOIS NATIONAL INSURANCE	:
COMPANY AND NATIONAL UNION FIRE	:
INSURANCE COMPANY OF PITTSBURGH,	:
PA.,	:
Defendants.	:
-----x	

Chapter 11  
 Case No. 05-60006 (RDD)  
 (Jointly Administered)

Adv. Proc. No. 08-1129-rdd

*Electronically Filed*

**APPELLEE'S COUNTER-STATEMENT OF ISSUE PRESENTED**

Pursuant to Fed R. Bankr. P. Rule 8006, Appellee Tone N. Grant, by counsel, hereby submits the following counter-statement of the issue on appeal in connection with the appeal of Illinois National Insurance Company ("Illinois") from the Order and Errata Order Granting Motion for Preliminary Injunction entered by the U.S. Bankruptcy Court for the Southern District of New York on March 25, 2008 and March 26, 2008, respectively. Appellee Tone N. Grant respectfully submits as follows:

**COUNTER-STATEMENT OF ISSUE ON APPEAL**

1. Did the bankruptcy court correctly grant Mr. Grant's motion for a preliminary injunction where 1) the Illinois National Policy provided for advancement of defense costs prior to the final disposition; 2) Illinois National expressly acknowledged its duty to advance defense costs to Mr. Grant; 3) Illinois National informed Mr. Grant less than three weeks before his criminal trial that it was reconsidering its decision and would not advance defense costs; and 4) Illinois National failed to establish that the prior knowledge exclusion in the policy applied to Mr. Grant's claim.

Dated: New York, New York  
April 24, 2008

By: s/ Norman L. Eisen

Norman L. Eisen (*pro hac vice*)  
Laura E. Neish (LN-0040)  
Zuckerman Spaeder LLP  
Attorneys for Plaintiff/Appellee  
Tone N. Grant  
1540 Broadway, Suite 1604  
New York, New York 10036  
Tel: (212) 704-9600  
Fax: (212) 704-4256